

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) WILLIAM B. CAPERS, JR. and)
(2) JENNIFER K. CAPERS,)
)
)
Plaintiffs,)
)
)
v.) Case No. 21-cv-013-KEW
)
)
(1) KOSS CONSTRUCTION)
COMPANY and)
(2) CENTRAL PLAINS CEMENT)
COMPANY,)
)
Defendants.)

JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE

The Plaintiffs, William B. Capers, Jr. and Jennifer K. Capers, and the Defendant, Koss Construction Company, pursuant to Rule 41(a)(1)(A), Fed.R.Civ.P., stipulate the voluntary dismissal of this lawsuit for the reasons set forth below:

1. The parties have identified additional potential Defendants that Plaintiffs intend to add as Defendants in this lawsuit.
2. One or more of the new Defendants to be added to this lawsuit are incorporated in the State of Oklahoma, therefore destroying diversity and federal jurisdiction of this matter.
3. This action must be refiled in the District Court in McIntosh County.

WHEREFORE, for the reasons stated above, the parties hereto stipulate that the present lawsuit may be dismissed without prejudice due to lack of subject matter jurisdiction.

Respectfully submitted,

s/ Gerard F. Pignato

Gerard F. Pignato, OBA No. 11473

RYAN WHALEY

400 North Walnut Avenue

Oklahoma City, Oklahoma 73104

Telephone: 405-239-6040

Facsimile: 405-239-6766

Email: jerry@ryanwhaley.com

ATTORNEYS FOR PLAINTIFFS

s/ Ashley M. Thul

Monty B. Bottom, OBA No. 987

Ashley M. Thul, OBA No. 31245

FOLIART HUFF OTTAWAY & BOTTOM

201 Robert S. Kerr Avenue, ,12th Floor

Oklahoma City, Oklahoma 73102

Telephone: 405-232-4633

Facsimile: 405-232-3462

Email: montybotttom@oklahomacounsel.com

Ashleythul@oklahomacounsel.com

ATTORNEYS FOR DEFENDANT,

KOSS CONSTRUCTION COMPANY

KIMBERLY E. WEST, U.S. MAGISTRATE JUDGE